

Environmental Protection Agency

§ 179.130

§ 179.112 Decision by Administrator on appeal or review of initial decision.

(a) On appeal from or review of the initial decision, the Administrator shall have the same powers as did the presiding officer in making the initial decision. On the Administrator's own initiative or on motion, the Administrator may remand the matter to the presiding officer for any further action necessary for a proper decision.

(b) The scope of the issues on appeal to, or on review by the Administrator is the same as the scope of the issues before the presiding officer, unless the Administrator specifies otherwise.

(c) After the filing of briefs and any oral argument, the Administrator will issue a final decision on the issues of fact in the hearing and the objections related to those issues. A final decision must contain the elements required for an initial decision by § 179.105(b).

(d) The Administrator may adopt the initial decision as the final decision.

(e) The Administrator's decision, or a summary of the decision and a notice of its availability, will be published in the FEDERAL REGISTER.

§ 179.115 Motion to reconsider a final order.

A party may file a motion requesting the Administrator to reconsider a final decision under this part. Any such motion must be filed within 10 days after service of the final decision, and must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such a motion shall not stay the effective date of the final decision unless specifically so ordered by the Administrator.

§ 179.117 Designation and powers of judicial officer.

(a) One or more judicial officers may be designated by the Administrator. A judicial officer shall be an attorney who is a permanent or temporary employee of the Agency or of another Federal agency. A judicial officer may perform other duties. A judicial officer who performs any duty under this part may not be employed by OPPTS, by the Pesticides and Toxic Substances Division of the Office of General Counsel, or by any other person who is a representative of OPPTS in the hear-

ing. A person may not be designated as a judicial officer in a hearing if he or she performed any prosecutorial or investigative functions in connection with that hearing or any other factually related hearing.

(b) The Administrator may delegate to the judicial officer all or part of the Administrator's authority to act in a given proceeding under this part. Such a delegation does not prevent the judicial officer from referring any motion or case to the Administrator when appropriate.

[55 FR 50293, Dec. 5, 1990, as amended at 57 FR 28087, June 24, 1992]

Subpart G—Judicial Review

§ 179.125 Judicial review.

(a) The Administrator's final decision is final agency action reviewable in the courts as provided by FFDCA section 408(h), as of the date of publication of the order in the FEDERAL REGISTER. The failure of a person to file a petition for judicial review within the period ending on the 60th day after the date of the publication of the order constitutes a waiver under FFDCA section 408(h) of the right to judicial review of the order and of any regulation promulgated by the order.

(b) The record for judicial review of a final decision under this part consists of the record described in § 179.130.

[55 FR 50293, Dec. 5, 1990, as amended at 70 FR 33360, June 8, 2005]

§ 179.130 Administrative record.

(a) For purposes of judicial review, the record of a hearing that culminates in a final decision of the Administrator under § 179.105(d) or § 179.112(c) ruling on an objection shall consist of:

(1) The objection ruled on (and any request for hearing that was included with the objection).

(2) Any order issued under § 180.7(g) of this chapter to which the objection related, and:

(i) The regulation or petition denial that was the subject of that order.

(ii) The petition to which such order responded.

(iii) Any amendment or supplement of the petition.

(iv) The data and information submitted in support of the petition.

(v) The notice of filing of the petition.

(3) Any order issued under §180.29(f) of this chapter to which the objection related, the regulation that was the subject of that order, and each related Notice of Proposed Rulemaking.

(4) The comments submitted by members of the public in response to the Notice of Filing or Notice of Proposed Rulemaking, and the information submitted as part of the comments, the Administrator's response to comments and the documents or information relied on by the Administrator in issuing the regulation or order.

(5) All other documents or information submitted to the docket for the rulemaking in question under parts 177 or part 180 of this chapter.

(6) The Notice of Hearing published under §179.20.

(7) All notices of participation filed under §179.42.

(8) Any FEDERAL REGISTER notice issued under this part that pertains to the proceeding.

(9) All submissions filed under §179.80.

(10) Any document of which official notice was taken under §179.95.

(b) The record of the administrative proceeding is closed:

(1) With respect to the taking of evidence, when specified by the presiding officer.

(2) With respect to pleadings, at the time specified in §179.98(a) for the filing of briefs.

(c) The presiding officer may reopen the record to receive further evidence at any time before the filing of the initial decision.

[55 FR 50293, Dec. 5, 1990, as amended at 70 FR 33360, June 8, 2005]

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

Subpart A—Definitions and Interpretative Regulations

Sec.

180.1 Definitions and interpretations.

180.3 Tolerances for related pesticide chemicals.

180.4 Exceptions.

180.5 Zero tolerances.

180.6 Pesticide tolerances regarding milk, eggs, meat, and/or poultry; statement of policy.

Subpart B—Procedural Regulations

180.7 Petitions proposing tolerances or exemptions for pesticide residues in or on raw agricultural commodities or processed foods.

180.8 Withdrawal of petitions without prejudice.

180.9 Substantive amendments to petitions.

180.29 Establishment, modification, and revocation of tolerance on initiative of Administrator.

180.30 Judicial review.

180.31 Temporary tolerances.

180.32 Procedure for modifying and revoking tolerances or exemptions from tolerances.

180.33 Fees.

180.34 Tests on the amount of residue remaining.

180.35 Tests for potentiation.

180.40 Tolerances for crop groups.

180.41 Crop group tables.

Subpart C—Specific Tolerances

180.101 Specific tolerances; general provisions.

180.103 Captan; tolerances for residues.

180.106 Diuron; tolerances for residues.

180.108 Acephate; tolerances for residues.

180.110 Maneb; tolerances for residues.

180.111 Malathion; tolerances for residues.

180.114 Ferbam; tolerances for residues.

180.116 Ziram; tolerances for residues.

180.117 S-Ethyl dipropylthiocarbamate; tolerances for residues.

180.121 Methyl parathion; tolerances for residues.

180.122 Parathion; tolerances for residues.

180.123 Inorganic bromide residues resulting from fumigation with methyl bromide; tolerances for residues.

180.123a Inorganic bromide residues in peanut hay and peanut hulls; statement of policy.

180.127 Piperonyl butoxide; tolerances for residues.

180.128 Pyrethrins; tolerances for residues.

180.129 o-Phenylphenol and its sodium salt; tolerances for residues.

180.130 Hydrogen Cyanide; tolerances for residues.

180.132 Thiram; tolerances for residues.

180.133 Lindane; tolerances for residues.

180.142 2,4-D; tolerances for residues.

180.144 Cyhexatin; tolerances for residues.

180.145 Fluorine compounds; tolerances for residues.

180.151 Ethylene oxide; tolerances for residues.